

REMARKS

The Office Action of December 10, 2007 has been received and carefully reviewed. It is submitted that, by this Amendment, all bases of rejection and objection are traversed and overcome. Upon entry of this Amendment, claims 1-7 remain in the application. Reconsideration of the claims is respectfully requested.

The specification stands objected to because of the following informalities. First, on page 4, line 11 of the Applicant's specification as filed, the Examiner asserts that the word "us" is a misspelling of the word "thus", or needs to be removed. In response thereto, Applicant has removed the word "us" from that portion of the specification. Second, on page 5, line 9 of the Applicant's specification as filed, the Examiner asserts that the word "with" is a misspelling of the word "within." Accordingly, Applicant has deleted the word "with" and inserted therein the word "within." In view of these amendments, it is submitted that the Examiner's objection to the specification has been traversed, and withdrawal of the same is respectfully requested.

Claim 1 stands objected to because, according to the Examiner, the use of the article "a" between the words "estimate" and "vehicle" should be edited for clarity. In response thereto, the article "a" between the words "estimate" and "vehicle" has been removed, and the word "the" has been inserted therein. Thus, claim 1 now recites, "using the incident data to automatically estimate the vehicle damage" (emphasis added). As such, Applicant submits that the Examiner's objection to claim 1 is rendered moot, and withdrawal of the same is respectfully requested.

Claim 1 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over McMillan, et al. (U.S. Patent No. 6,064,970) in view of Kidd, et al. (U.S. Patent No. 6,470,303). The Examiner asserts that McMillan teaches all elements of independent claim 1 except that the incident data is used to automatically estimate the vehicle damage. The Examiner relies on Kidd to supply this deficiency. The Examiner concludes that claim 1 is therefore obvious in view of the combination of McMillan and Kidd.

In response thereto, Applicant respectfully disagrees with the Examiner for the following reasons. Claim 1 is directed to a method for estimating **vehicle damage**. The method as defined by claim 1 recites "utilizing the incident data to automatically estimate the **vehicle damage**," and "utilizing the estimated **vehicle damage** in a vehicle insurance process" (emphasis added). As provided in Applicant's specification as filed, at least at page 1, lines 20-23, the method as defined in claim 1 advantageously "takes advantage of available information from vehicle sensors to automatically estimate vehicle damage and consider the automatic estimate in connection with the vehicle insurance process." Yet further, the method defined in claim 1 advantageously "allow[s] vehicle insurers to automatically verify damage estimates **without utilizing insurance inspectors**" (see page 1, lines 24-26 of Applicant's specification as filed).

In sharp contrast, McMillan discloses a vehicle monitoring system for determining **the cost of insurance**. This system monitors, records, and communicates data representative of **operator and vehicle driving characteristics**. (See Abstract of McMillan). Such operator and vehicle driving characteristic data include actual miles driven, types of roads driven on, speed of the vehicle, safety equipment used such as a seat belt or a turn signal, a time of day the vehicle is driven, a rate of acceleration, a rate of braking, and an observation of traffic signals to name a few (see column 6, lines 29-43). Applicant submits that data representative of operator and vehicle driving characteristics is **not** the same as vehicle **incident** data used to automatically estimate **vehicle damage**.

Since McMillan fails to teach sending **vehicle incident data** to a service center to ultimately estimate or assess **vehicle damage** incurred during a vehicle incident, and instead teaches obtaining data related to operator and vehicle driving characteristics in order to determine a cost of insurance, it is submitted that (contrary to the Examiner's assertion) the McMillan reference does NOT teach all elements of independent claim 1 except that the incident data is used to automatically estimate

the vehicle damage. For at least this reason, Applicant submits that the combination of McMillan and Kidd fails to render obvious claim 1.

Assuming *arguendo* that the Examiner's assertion regarding the McMillan reference were valid, Applicant submits that Kidd **fails** to supply the asserted deficiency of McMillan. In fact, Kidd **teaches away** from the claimed invention by teaching the opposite of what the present inventors achieve. Particularly, Kidd requires manual intervention and fails to teach using vehicle incident data to **automatically** estimate vehicle damage (as asserted by the Examiner).

Kidd teaches a system and method for acquiring and quantifying vehicular damage information. In Kidd, upon entering into a computer, **via a user**, damage incurred to the vehicle during a vehicle incident, a vehicle damage rating is generated for the vehicle (see paragraphs [0024] and [0088] of Kidd). In an example, set forth in paragraph [0089] of Kidd, the computer includes a graphical user interface with a list of vehicle components. Damaged vehicle components may be selected from the list to create a list of damaged components. For each damaged vehicle component, the graphical user interface allows a user to select whether components were repaired or replaced with a repair estimate. The computer then determines an appropriate damage rating for the vehicle involved in the vehicle accident.

As such, Kidd clearly **teaches away** from the claimed invention because the Kidd system and method requires *human intervention* for supplying the necessary data to the computer in order to quantify a vehicle damage rating. Kidd does *not* teach that vehicle incident data is **automatically sent** to a service center, where the service center **automatically** estimates the vehicle damage.

For all of the reasons stated above, it is submitted that Applicant's invention as defined in claim 1 is not anticipated, taught, or rendered obvious by McMillan and Kidd, either alone or in combination, and patentably defines over the art of record.

Claims 2-7 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over McMillan and Kidd, and further in view of Madill, et al. (U.S. Publication No. 2005/0108063) and Official Notice. Regarding claim 2, the Examiner asserts that the

combination of McMillan, Kidd, and Madill teaches all elements of the claim, except for "receiving a claim damage estimate." The Examiner takes Official Notice that an insurance carrier receiving a claim damage estimate for analysis is old and well known in the insurance industry. Regarding claim 5, the Examiner asserts that the combination of McMillan, Kidd, and Madill teaches all elements of the claim.

Independent claims 2 and 5 are directed to a method and system for estimating vehicle damage, respectively. Claim 2 recites, "obtaining an incident delta velocity from the **vehicle incident**," "sending the incident delta velocity to a service center," and "at the service center, using the incident delta velocity with vehicle identification information to **automatically** estimate a **vehicle damage value**" (emphasis added). Claim 5 recites, "an in-vehicle transceiver for automatically sending vehicle **incident** data to a service center," and "an estimator within the service center using the incident data to **automatically** estimate a **vehicle damage value**."

For the reasons provided above in connection with the discussion of McMillan, Applicant submits that the McMillan reference also does not teach the asserted elements of independent claims 2 and 5. Again, even if the Examiner's assertion regarding the McMillan reference were valid, it is submitted that Kidd fails to supply the deficiency of McMillan. For example, Kidd fails to teach "using the incident delta velocity with vehicle identification information to automatically estimate a vehicle damage" as recited in claim 2, and "an estimator within the service center using the incident data to automatically estimate a vehicle damage value" as recited in claim 5. As such, it is submitted that the combination of McMillan, Kidd, Madill, and the Official notice fails to establish all elements of claim 2, and thus does not render the claim obvious. Further, the combination of McMillan, Kidd, and Madill fails to establish all elements of claim 5, also failing to render the claim obvious.

Accordingly, it is submitted that Applicant's invention as defined in independent claims 2 and 5, and in those claims depending ultimately therefrom, is

not anticipated, taught or rendered obvious by McMillan, Kidd, and Madill, either alone or in combination, and patentably defines over the art of record.

In summary, claims 1-7 remain in the application. It is submitted that, through this Amendment, Applicant's invention as set forth in these claims is now in a condition suitable for allowance.

Further and favorable consideration is requested. If the Examiner believes it would expedite prosecution of the above-identified application, the Examiner is cordially invited to contact Applicant's Attorney at the below-listed telephone number.

Respectfully submitted,

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